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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

HUGH MILLER MEDORE, ET AL., *Appellants*

v.

ARTHUR I. HEMMINGER, ET AL., *Appellees*

HERMAN W. BEVIS, ET AL., *Appellants*

v.

MARK W. EASTLAND, ET AL., *Appellees*

ON APPEAL FROM THE SUPREME COURT OF FLORIDA

MOTION FOR LEAVE TO FILE AND BRIEF AMICUS CURIAE IN SUPPORT OF APPELLANTS' PETITION FOR REHEARING

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 406

HUGH MILLER MERCER, ET AL., *Appellants*

v.

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HERMAN W. BEVIS, ET AL., *Appellants*

v.

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ON APPEAL FROM THE SUPREME COURT OF FLORIDA

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Movant, the American Institute of Certified Public Accountants, Inc. (hereinafter the "Institute"), has secured the consent of Appellants and has sought but not yet been granted the consent of Appellees to allow the filing of a brief in support of Appellants' petition for rehearing. Accordingly, the Institute asks that this Court exercise its discretion under Rule 42(1) to permit the Institute to file the attached *amicus* brief so that its views may be presented in these cases.

Interest of Amicus Curiae

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Only certified public accountants of the United States, licensed as such by the state, are eligible for membership in the Institute, and almost two-thirds of

them, some 60,000, are members of the organization. In the field of professional accounting, it is the counterpart of the American Bar Association in the law and the American Medical Association in medicine. As such the Institute is deeply involved in the formulation of professional ethics, the development of high standards of technical performance, the preparation of uniform examinations used throughout the United States to test the competence of those who seek admission into the profession, and similar matters. The Institute has also devoted considerable attention to the issue presented by the present cases—the relationship of various methods of state regulation of the practice of accounting to the ability of CPA firms to serve their clients in interstate commerce effectively and economically. Indeed, the governing body of the Institute has adopted the following objective for the organization:

> "It is an objective of the Institute to bring about uniform national standards applicable to the requirements for issuance of CPA certificates and recognition of qualified accountants of other countries, *freedom of movement in interstate and international accounting practice,* and codes of ethics and enforcement procedures." (Emphasis supplied.) (Adopted May 1962)

AICPA, *Code of Professional Ethics and By-Laws* 34 (1967).

Thus, the Institute's interest in the present litigation derives both from its unique position as national spokesman for the profession and from its continuing concern with the issues raised by this case. This interest, it is submitted, should be sufficient to sustain the Institute's position as amicus curiae in the present cases.

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BRIEF AMICUS CURIAE IN SUPPORT OF APPELLANTS' PETITION FOR REHEARING

An amicus brief in support of a petition for rehearing is not the place for a detailed discussion of the issues of law raised by the decision below. Those issues have been identified and discussed by the parties in their prior submissions to this Court. The only purpose of this brief is to submit the Institute's view of the importance of the questions for which review is sought.

Florida's injunction against Price, Waterhouse & Co raises serious problems which require this Court' resolution. Like every state, Florida has a legitimat concern about the quality of professional services pro vided in the state, be they legal, medical, or accounting But also involved in these appeals are important ques tions concerning the flow of interstate commerce; th interests of investors; and the interstate character o practice in the accounting profession, which is neces sarily different from that of law or medicine. Ther may be implications for international trade and invest ment as well.

This is not the place to argue these questions. W simply urge that the questions are so important tha they should be resolved one way or the other by thi Court.

The Institute has long recognized the legitimacy o state regulation of the accounting profession. We urge however, that there are issues in these cases relatin to national commerce and to the professional practic of accounting throughout the country which are highl relevant in the analysis of the constitutional question involved in the present appeals, and we draw to th Court's attention that the Florida Supreme Court di not even advert to these broader issues in reachin its decision.

We fear that the decision below, if allowed to stan as not raising a substantial federal question, may b interpreted as holding these broader issues irrelevan to the administration of state statutes regulating th practice of accounting. The result may be wide-sprea and sustained uncertainty and confusion, as well a substantial adverse economic effects.

We therefore urge the Court to grant Appellants' petition for rehearing, to note probable jurisdiction, and to hear argument on the merits in order to provide a full and fair opportunity for all interests to be explored in the resolution of this difficult matter.

Respectfully submitted,

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